

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MARY LEE LONG, SHARON
LOUISE LONG, and JOHN MICHAEL LONG,
Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MINNIE LOUISE LONG,

Respondent-Appellant.

UNPUBLISHED

February 8, 2007

No. 271014

Genesee Circuit Court

Family Division

LC No. 05-120461-NA

Before: Donofrio, P.J., and Bandstra and Zahra, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(b)(ii), (g), and (j). We affirm.

This was an extremely close case. However, the trial court did not clearly err when it found clear and convincing established at least one statutory ground for termination. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). On May 26, 2005, the oldest child disclosed to respondent that the children's father, respondent's husband John Wayne Long ("Long"), had sexually abused her. In response to this information, respondent rebuffed the oldest child's offers of proof and, instead, asked Long whether that allegation was true. When Long denied the abuse, respondent inquired of the middle child whether she had been abused by Long or whether she had seen Long in the bedroom she shared with the oldest child. This middle child was a special education student and needed help understanding respondent's questions but, after respondent demonstrated her question, the child understood and denied any abuse. Respondent then concluded that the oldest child's allegations against Long were false and did not take any steps to protect the children, placing them at risk of future abuse by Long.¹ This

¹ The risk of further abuse was present, even if no abuse actually occurred after this date. Further, Long admitted to abusing the middle daughter a total of four to five times, but the middle daughter only confirmed one occasion. This discrepancy raises the possibility the middle child could have been abused after May 26, 2005.

evidence demonstrated that respondent had the opportunity to prevent further abuse but failed to do so under MCL 712A.19b(3)(b)(ii), and that respondent failed to provide proper care or custody for the children under MCL 712A.19b(3)(g).

The next question is whether there was a reasonable likelihood or expectation that respondent could protect the children in the foreseeable future. This was a very close question because Long is not eligible to be released from prison until after the youngest child has reached the age of majority, so there is no risk of further sexual abuse of the children by him. However, certainly there were other ways that the children could be injured or abused, and one such way was by their mother continuing to place the perpetrator's needs above their needs. Unfortunately, respondent continued her relationship with Long after he admitted to sexually abusing the two oldest children, assisting him while he was jailed before his sentencing and even after he was sent to Jackson Prison. Respondent also asked that Long not receive jail time for the offenses underlying this action because of her financial dependence on him. Meanwhile, respondent did not bother to provide personal belongings requested by the oldest child, who was in foster care and wanted some things that reminded her of her family home. This behavior demonstrated that it was likely that respondent would continue contact with Long, despite her claims to the contrary and her vow to divorce him. Although the children were all pre-adolescent or in their teenaged years, their needs were acute after the trauma inflicted upon the two oldest children by Long. Therefore, the trial court did not clearly err when it found that there was no reasonable likelihood or expectation that respondent could protect the children in the foreseeable future. Thus, the trial court did not clearly err in terminating respondent's parental rights pursuant to MCL 712A.19b(3)(b)(ii), (g), and (j).

The best interests determination presented an even closer question, with the oldest daughter fervently expressing her and her siblings' desire to be reunited with respondent. The trial court struggled with this decision and solicited additional information from psychological examinations. It gave great weight to the children's preferences but ultimately found them to be outweighed by respondent's apparent inability to break off contact with Long, her inability to fully understand the impact of Long's actions, and the dangers posed by respondent's dependent personality. The trial court also noted that the psychological evaluator had warned that, should respondent fail to deal with her issues, the damage to the children would be more traumatic than if respondent's parental rights had been terminated. Based on the whole record, we cannot conclude that the trial court clearly erred in its best interests determination. MCR 3.977(J); MCL 712A.19b(5). The children deserve to be in a home where their needs are given priority.

We affirm.

/s/ Pat M. Donofrio
/s/ Richard A. Bandstra
/s/ Brian K. Zahra